

Appl. No. 10/805,759
Amdt. dated February 28, 2005
Reply to Office Action of September 30, 2004

REMARKS/ARGUMENTS

Claims 7 - 15 are in the application for consideration.

1. The examiner has objected to the drawings under 37 CFR § 1.83(a) for the reason that the layer of non-uniform thickness is not properly illustrated.

Enclosed is a new sheet of drawings in which Figs. 5 and 6 have been amended to show that the layer in question is of non-uniform thickness and, further, that the layer has maximum thickness in the center with the thickness diminishing gradually radially toward the periphery of the layer.

Figs. 5 and 6 have also been amended by deleting the numeral "51" to illustrate the non-uniformly thick layer and replacing it with the numeral "60". The numeral "51" was inadvertently used to illustrate two different items in the drawings (see conduit 51 in Figs. 1 and 2). The specification has been amended, at page 23, to reflect this change.

Fig. 6 has also been further amended by inserting the numeral "50" to designate the lens shown therein as is described at page 23, line 3.

Applicant submits that the drawings in the application now fully comply with the drawing requirements recited in the regulations and request withdrawal of the objection.

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2. The examiner has objected to the claims because

It is unclear how said shaped plastic lens can reasonably be denominated as being a **lens** when, as presently recited in the preamble of independent claim 7, said shaped plastic lens is claimed as having *substantially no optical power*.

Applicant submits that there are no informalities in the claim language. The language used in the claims is standard, well-accepted and understood, in the eyeglass art. The lenses in non-prescription eyeglasses or sunglasses, for example, are commonly referred to as lenses in the industry.

Reconsideration of this objection and withdrawal thereof are requested.

3. Claim 7 has been amended to even more particularly point out and distinctly claim the subject matter of Applicant's invention. The claim now recites that the second thermoplastic layer is substantially uniformly thick and further recites a third layer which is of non-uniform thickness. The third layer is characterized as forming the convex side of the lens.

The amendments made in claim 7 are fully supported by the specification and do not involve any objectionable new matter. See the description of the lens blanks which may be used to form the shaped lenses of the invention, e.g., page 3, line 5 to page 4, line 8, and Figs. 5 and 6 which illustrate the lenses of the invention.

In addition claims 12 - 15, which are drawn to preferred embodiments of applicant's lenses, have been

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added to the application. The embodiments recited in claims 12 - 15 are fully supported by the application as originally filed. See, for example, page 18, lines 2 - 11.

4. Claims 7 - 12 have been rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,650,473 B2 ("Nakagoshi").

As pointed out above Claim 7 has been amended to more particularly define the claimed subject matter. The claim now recites that the second thermoplastic layer is substantially uniformly thick and further recites a third layer which is of non-uniform thickness. The third layer is characterized as forming the convex side of the lens.

Applicant traverses this ground of rejection. In order to properly support a rejection under Section 102 a reference must teach each and every element of the claimed subject matter. Here, Nakagoshi does not teach each and every element of the shaped plastic lens recited in the present claims.

Nakagoshi relates to a method for manufacturing polarized spectacle lenses. According to the disclosure a polarizing film is formed and a plastic film, e.g. a polyurethane film, which is optically transparent and compatible and fusible with a plastic lens molding material, is placed on one surface of the polarizing sheet. The resulting laminate is then shaped by hot-pressing to form the desired shape of the lens. Subsequently the shaped laminate is placed in a cavity and a plastic lens-molding material is injected into the

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cavity to complete the plastic polarized spectacle lens (see column 3, lines 10 - 27. The lens material of Nakagoshi is illustrated in Fig. 1.

Nowhere does the reference teach or show that the lens material has a non-uniform thickness or has substantially no optical power. The platens used to form the shaped plastic lenses of applicant, as described in detail in the application, are shaped so as to form a lens of non-uniform thickness. There is no teaching that the lens-forming mold cavity in which the final lens material is formed is intended to form a layer of non-uniform thickness from the plastic lens-molding material which is injected into the cavity to complete the lens.

The examiner has referred to layer 10 in Fig. 1 as a layer having non-uniform thickness. The disclosure of Nakagoshi does not support such a conclusion. In describing the polarizing sheet (layers 6, 8, 10), it is specified that the polarizing sheet has a ".... thickness of 0.2mm or less" (see the paragraph bridging columns 2 and 3).

The examiner has also asserted that Nakagoshi discloses a plastic lens having substantially no optical power. As support for this position it is stated that this property is implicit in the lens depicted in Fig. 1 of the reference. There is no support in the reference for this conclusion.

Claims 8 - 15 are dependent, either directly or indirectly, upon claim 1 and are therefore also not anticipated by the reference.

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In summary, Nakagoshi does not teach each and every element of, and, further, does not suggest, applicant's claimed lens. Reconsideration of this ground of rejection and withdrawal thereof are respectfully requested.

5. Claims 7 - 11 have been rejected under the judicially created doctrine of obviousness double patenting as being unpatentable over claim 11 of U.S. Patent 5,434,707. In support of the rejection the examiner has asserted that the present claims and claim 11 of the '707 patent are not patentably distinct from each other.

Applicant traverses this ground of rejection. Obviousness-type double patenting rejections involve claims in an application which define merely obvious variations of subject matter claimed in a patent. In considering whether this condition is present only the claims of the patent may be relied upon. Here the claims of the '707 patent do not suggest the shaped plastic lens recited in the present claims.

Claims 1 - 10 of the '707 patent recite a method for forming a plastic lens convex on one side and concave on the other and having its maximum thickness in the central region and diminishing gradually in thickness radially toward the periphery of the lens. Claim 11 is directed to the lens made by the method.

Present independent claim 7 recites a shaped plastic lens which is also convex on one side and concave on the other and which also has maximum thickness in the central region and diminishing gradually in thickness radially

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toward the periphery of the lens. Claim 7, further recites that the thermoplastic layer of non-uniform thickness, which forms the convex side of the lens, has high scratch resistance. Claim 11 of the '707 patent does not suggest a shaped plastic lens where the thermoplastic layer which forms the convex side of the lens has high scratch resistance.

New claims 12 - 15, which recite the preferred embodiment of applicant's shaped lens wherein the layer of non-uniform thickness comprises a polymer of a tetraethylene glycol methacrylate monomer and a dipentaerythritol pentaacrylate monomer. This specific polymer, which forms the convex side of the lens and has high scratch resistance, is not suggested by claim 11 of the '707 patent.

To summarize, claim 11 of the '707 patent teaches certain limitations of applicant's claimed shaped plastic lenses but does not suggest a distinguishing feature, i.e., the high scratch resistant layer which forms the convex side of the lens. Reconsideration of this ground of rejection and withdrawal thereof are respectfully requested.

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In summary claims 7 - 15 have been shown to be patentably distinguishable over the references of record. Reconsideration of the application and allowance of the claims are respectfully solicited.

Respectfully submitted,



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